

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Originating

Senate Bill 537

BY SENATORS AZINGER, BEACH, CAPUTO, GRADY,
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RUCKER, SMITH, WELD, WOELFEL, WOODRUM, AND
TRUMP

[Originating in the Committee on the Judiciary;
reported on March 2, 2021]

1 A BILL to amend and reenact §61-2-14a of the Code of West Virginia, 1931, as amended, relating
2 to the offense of kidnapping generally; and clarifying elements of the offense.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-14a. Kidnapping; penalty.

1 (a) Any person who unlawfully takes custody of, conceals, confines, transports, or
2 restrains another person against his or her will by means of force, threat of force, duress, fraud,
3 deceit, inveiglement, misrepresentation, or enticement with the intent to:

4 (1) Hold ~~To hold~~ another person for ransom, reward, or concession;

5 (2) ~~To transport another person with the intent to~~ Inflict bodily injury; ~~or to~~

6 (3) Terrorize ~~terrorize~~ the victim or another person; or

7 (4) ~~(3) To~~ Use ~~use~~ another person as a shield or hostage, is guilty of a felony and, upon
8 conviction thereof, shall be punished by imprisonment by the Division of Corrections and
9 Rehabilitation for life, and, notwithstanding the provisions of §62-12-1 *et seq.* of this code, is not
10 eligible for parole.

11 (b) The following exceptions apply to the penalty contained in subsection (a) of this
12 section:

13 (1) A jury may, in their discretion, recommend mercy, and if the recommendation is added
14 to their verdict, the person is eligible for parole in accordance with the provisions of §62-12-1 *et*
15 *seq.* of this code;

16 (2) If the person pleads guilty, the court may, in its discretion, provide
17 that the person is eligible for parole in accordance with the provisions of §62-12-1 *et seq.* of this
18 code and, if the court so provides, the person is eligible for parole in accordance with the
19 provisions of said article, in the same manner and with like effect as if the person had been found
20 guilty by the verdict of a jury and the jury had recommended mercy;

21 (3) In all cases where the person against whom the offense is committed is returned, or is
22 permitted to return, alive, without bodily harm having been inflicted upon him or her, but after
23 ransom, money, or other thing, or any concession or advantage of any sort has been paid or
24 yielded, the punishment shall be imprisonment by the Division of Corrections and Rehabilitation
25 for a definite term of years not less than 20 nor more than 50; or

26 (4) In all cases where the person against whom the offense is committed is returned, or is
27 permitted to return, alive, without bodily harm having been inflicted upon him or her, but without
28 ransom, money, or other thing, or any concession or advantage of any sort having been paid or
29 yielded, the punishment shall be imprisoned by the Division of Corrections and Rehabilitation for
30 a definite term of years not less than 10 nor more than 30.

31 (c) For purposes of this section, "to use another as a hostage" means to seize or detain
32 and threaten to kill or injure another in order to compel a third person or a governmental
33 organization to do, or abstain from doing, any legal act as an explicit or implicit condition for the
34 release of the person detained.

35 (d) Notwithstanding any other provision of this section, if a violation of this section is
36 committed by a family member of a minor abducted or held hostage and he or she is not motivated
37 by monetary purposes, but rather intends to conceal, take, remove the child, or refuse to return
38 the child to his or her lawful guardian in the belief, mistaken or not, that it is in the child's interest
39 to do so, he or she is guilty of a felony and, upon conviction thereof, shall be imprisoned in a
40 correctional facility for not less than one nor more than five years or fined not more than \$1,000,
41 or both imprisoned and fined.

42 (e) Notwithstanding any provision of this code to the contrary, where a law-enforcement
43 agency of this state or a political subdivision thereof receives a complaint that a violation of the
44 provisions of this section has occurred, the receiving law-enforcement agency shall notify any
45 other law-enforcement agency with jurisdiction over the offense, including, but not limited to, the

46 State Police and each agency so notified, shall cooperate in the investigation immediately
47 ~~forthwith~~.

48 (f) It is a defense to a violation of subsection (d) of this section, that the accused's action
49 was necessary to preserve the welfare of the minor child and the accused promptly reported his
50 or her actions to a person with lawful custody of the minor, to law enforcement, or to the Child
51 Protective Services Division of the Department of Health and Human Resources.